

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

KRISTINE M. NEIDINGER	) NO. C10-5702-RBL
	)
Plaintiff;	) AMENDED COMPLAINT
v.	)
	)
	)
COUNTY OF PIERCE; ELIZABETH	)
WYATT EARP; RICHARD D.	)
MALIDORE and LOIS K. MALIDORE	)
and the marital community thereof; JAMES	)
PATRICK WILLIAMS and REBEKAH	)
JILL WILLIAMS and the marital	)
community thereof; and JULIE	)
McARTHUR and ALLEN McARTHUR	)
and the marital community thereof;	)
	)
Defendants.	)

COMES NOW Plaintiff, Kristine M. Neidinger, by and through her attorney, Christopher Taylor of The Evergreen Law Group, P.S., complaining against defendants, County of Pierce, Elizabeth Wyatt Earp, James Patrick Williams and Rebekah Jill Williams and the marital community thereof, and Richard D. Malidore and Lois K. Malidore and the marital community thereof, Julie McArthur and Allen McArthur and the marital community thereof, and alleges as follows:



I. JURISDICTION AND VENUE

1.1 This Court has jurisdiction over the subject matter of this action pursuant to Title 28, United States Code §§ 1331, 1332 and 1343, and venue is properly set in the Western District of Washington State pursuant to 28 U.S.C. § 1391.

1.2 The claims upon which this action is based occurred in the Western District of Washington State.

1.3 Plaintiffs are informed and believe, and on this basis alleges, that each of the named Defendants reside in this judicial district.

1.4 County of Pierce was served with a Claim for Damages pursuant to RCW 4.96. County of Pierce has not responded to the Claim for Damages, and more than sixty days has elapsed since its filing.

II. PARTIES

2.1 Plaintiff Kristine M. Neidinger is an unmarried individual residing primarily in the State of Washington, County of Pierce within the Western District of Washington State.

2.2 Defendant County of Pierce is a local government entity in Pierce County, Washington governed by and functioning under the laws of the State of Washington. County of Pierce includes the Pierce County Sheriff's Department.

2.3 Defendants Elizabeth W. Earp is an unmarried individual, and upon belief reside in Pierce County within the Western District of Washington State. Elizabeth W. Earp is and was at the time of the incidents that are the subject of this action a Pierce County Corrections Deputy in the employ of County of Pierce, and acting within the scope of her duties.



1 2.4 Defendants Richard D. Malidore and Lois K. Malidore constitute a marital community  
2 under the laws of the State of Washington, and upon belief reside in Pierce County  
3 within the Western District of Washington State. Richard D. Malidore is and was at  
4 the time of the incidents that are the subject of this action a Pierce County Correctional  
5 Sergeant in the employ of County of Pierce, and acting within the scope of his duties.

6 2.5 Defendants Julie McArthur and Allen McArthur constitute a marital community under  
7 the laws of the State of Washington, and upon belief reside in Pierce County within  
8 the Western District of Washington State. Julie McArthur is and was at the time of the  
9 incidents that are the subject of this action Pierce County Corrections Deputy in the  
10 employ of County of Pierce, and acting within the scope of her duties.

11 2.6 Defendants James P. Williams and Rebekah J. Williams constitute a marital  
12 community under the laws of the State of Washington, and upon belief reside in Pierce  
13 County within the Western District of Washington State. James P. Williams is and was  
14 at the time of the incidents that are the subject of this action a Pierce County  
15 Corrections Deputy in the employ of County of Pierce, and acting within the scope of  
16 his duties.

### 17 III. FACTS

18 3.1 On April 9, 2008, Kristine M. Neidinger was arrested and booked into the Pierce  
19 County Detention and Corrections Center as a pretrial detainee.

20 3.2 Pierce County Sheriff's Department employee Corrections Officer Van Zuyt, after  
21 experiencing some difficulty booking Ms. Neidinger due to Ms. Neidinger's numerous  
22 piercings, secured Ms. Neidinger in a single occupancy cell.  
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1 3.3 From the cell, Ms. Neidinger yelled repeatedly and loudly. The content of Ms.  
2 Neidinger's yelling included requests that she be provided medication for her ulcer and  
3 for her mental health issues. Ms. Neidinger accompanied her yelling with banging on  
4 the door.

5 3.4 At approximately 4:48 PM, Defendant Richard D. Malidore instructed Ms. Neidinger  
6 to stop yelling and stop banging on the door. Defendant Malidore indicated he might  
7 never let Ms. Neidinger out of the cell if she did not stop yelling and stop banging on  
8 the door. Ms. Neidinger responded by removing her pants and presenting her bare  
9 behind to Defendant Malidore, then again requesting her medication.

10 3.5 Defendant Malidore displayed an electroshock weapon (hereinafter referred to as a  
11 "TASER"), and instructed Ms. Neidinger to step away from the door. As Ms.  
12 Neidinger stepped back, she again requested her medication.

13 3.6 Defendant Malidore entered the cell, and placed the TASER on Ms. Neidinger's chest,  
14 instructing Ms. Neidinger to back up and face the wall.

15 3.7 After Ms. Neidinger took three steps back, Defendant Malidore again instructed Ms.  
16 Neidinger back up and face the wall, and then used the TASER.

17 3.8 Defendants Earp, Williams, and McArthur entered the cell. Defendants Malidore,  
18 Earp, Williams, and McArthur will hereinafter be referred to as "the individual  
19 Defendants."  
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21 3.9 One or more of individuals Defendants pushed Ms. Neidinger against the wall of the  
22 cell and applied handcuffs.  
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24 3.10 One of the individual Defendants used a TASER on Ms. Neidinger's shoulder.  
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1 3.11 One or more of the individual Defendants used a TASER on Ms. Neidinger's back  
2 several times, each time after Ms. Neidinger had been placed in handcuffs, and each  
3 time accompanied by a hitting or stabbing motion.

4 3.12 One or more of the individual Defendants placed Ms. Neidinger in leg irons.

5 3.13 One of the individual Defendants sat on Ms. Neidinger's back, placed his left hand on  
6 to Ms. Neidinger's throat and began choking her. Then, after the individual Defendant  
7 in the cell partially removed his left hand, he used a TASER on Ms. Neidinger's neck.

8 3.14 While still in handcuffs and leg irons, one or more of the individual Defendants  
9 dragged Ms. Neidinger to another part of the cell, and chained her feet to a hook in the  
10 floor in a "hog tied" position.

11 3.15 Ms. Neidinger remained in the "hog tied" position for some time.

12 3.16 Throughout at least part of the time the individual Defendants were in the cell with  
13 Ms. Neidinger, Pierce County Sheriff's Office Lieutenant Gerrish observed from  
14 outside the cell.

15 3.17 As a result of the actions of the individual Defendants, Ms. Neidinger vomited,  
16 urinated and defecated.

17 3.18 As a result of the actions of the individual Defendants, Ms. Neidinger lost  
18 consciousness temporarily.

19 3.19 As a result of the actions of the individual Defendants, Ms. Neidinger suffered  
20 extraordinary physical pain.

21 3.20 As a result of the actions of the individual Defendants, Ms. Neidinger suffered  
22 numbness.



1 3.21 As a result of the actions of the individual Defendants, Ms. Neidinger suffered  
2 numerous wounds, bruises, and other physical injuries.

3 IV. STATEMENT OF DAMAGES

4 4.1 As a direct and proximate result of the acts of Defendants, Plaintiff Neidinger suffered  
5 violations of certain constitutionally protected rights, including violations under the  
6 Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution.

7 4.2 As a further direct and proximate result of the acts of Defendants, Plaintiff Neidinger  
8 suffered physical injury.

9 4.3 As a further direct and proximate result of the acts of Defendants, Plaintiff Neidinger  
10 suffered physical pain and suffering, anxiety, emotional distress, and humiliation.

11 4.4 As a further direct and proximate result of the acts of Defendants, Plaintiff Neidinger  
12 incurred costs and fees—including filing fees, attorneys fees, investigatory fees,  
13 copying costs, and the like—associated with bringing and maintaining this action.

14 V. CAUSES OF ACTION

15 COUNT ONE  
16 VIOLATION OF CIVIL RIGHTS  
17 (As to individual Defendants)

18 5.1 Plaintiff Neidinger realleges and incorporates herein by reference the allegations set  
19 forth in Paragraphs 1.1 through 4.4.

20 5.2 Defendants acted under color of law to deprive Plaintiff Neidinger of certain  
21 constitutionally protected rights, including, but not limited to (1) the right to be free  
22 from unreasonable and excessive force under the Fourth and Fourteenth Amendments,  
23 (2) the right to be free from cruel and unusual punishment under the Fifth, Eighth, and  
24



Fourteenth Amendments, and (3) the right to due process of law under the Fifth and Fourteenth Amendments.

5.3 As a direct and proximate result of Defendants' actions, Plaintiff Neidinger sustained damages.

COUNT TWO  
VIOLATION OF CIVIL RIGHTS  
(As to all Defendants)

5.4 Plaintiff realleges and incorporates herein by reference the allegations set forth in Paragraphs 1.1 through 4.4.

5.5 Defendants acted pursuant to official local governmental entity policy under color of law, statute, ordinance, regulation, custom, or usage of the State of Washington, and thereby subjected, or caused to be subjected, Plaintiff Neidinger to the deprivation of her rights, privileges, or immunities secured by the Constitution of the United States.

5.6 As a direct and proximate result of Defendants' actions, Plaintiff Neidinger sustained damages.

VI. JURY TRIAL DEMAND

6.1 Plaintiffs demand a jury trial in this matter.

VII. RESERVATION OF RIGHTS

7.1 Plaintiffs reserves the right to amend this complaint as the factual allegations contained herein, and to add any and all other claims that have or may arise from the facts underlying this lawsuit.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Neidinger asks the Court for the following relief:



- 1 8.1 To accept jurisdiction of Plaintiff Neidinger's claims and to grant her request for a jury  
2 trial of her peers;
- 3 8.2 To award damages to compensate Plaintiff Neidinger for her out-of-pocket expenses  
4 from Defendants, jointly and severally, in amounts to be determined at trial;
- 5 8.3 To award damages to compensate Plaintiff Neidinger for her physical pain and  
6 suffering, anxiety, emotional distress, and humiliation from Defendants, jointly and  
7 severally, in an amount to be determined at trial;
- 8 8.4 To award damages to compensate Plaintiff Neidinger for her physical injuries from  
9 Defendants, jointly and severally, in an amount to be determined at trial;
- 10 8.5 To declare that Defendants violated the above-named constitutional rights of Plaintiff  
11 Neidinger;
- 12 8.6 To award pre- and post-judgment interest on all amounts awarded;
- 13 8.7 To award Plaintiff Neidinger her costs and attorney fees; and
- 14 8.8 To grant other relief as appropriate.
- 15

16 DATED this 1st day of June, 2011.

17

18 /s/ Christopher Taylor  
19 Christopher Taylor  
20 Attorney for Plaintiff  
21 Washington State Bar Number 38413  
22 E-mail: [christopher@evergreenlawgrp.com](mailto:christopher@evergreenlawgrp.com)  
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CERTIFICATE OF SERVICE

I hereby certify that on June 1<sup>st</sup>, 2011 I electronically filed the foregoing AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Michelle Luna-Green, Attorney for Defendants at [mluna@co.pierce.wa.us](mailto:mluna@co.pierce.wa.us)

DATED this 1st day of June, 2011.

/s/ Christopher Taylor  
Christopher Taylor  
Attorney for Plaintiff  
Washington State Bar Number 38413  
email: [christopher@evergreenlawgrp.com](mailto:christopher@evergreenlawgrp.com)

